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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.   | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 09/912,943   | 07/25/2001  | Christopher Sann     | SAN-010US             | 5596             |
| 31344  | 7590        | 08/02/2005           | EXAMINER              |                  |
| RATNERPRESTIA<br>P.O. BOX 1596<br>WILMINGTON, DE 19899 |             |                      | FREJD, RUSSELL WARREN |                  |
|  |             |                      | ART UNIT              | PAPER NUMBER     |
|  |             |                      | 2128                  |                  |
| DATE MAILED: 08/02/2005                                |             |                      |                       |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|------------------------------|------------------------|---------------------|--|
|                              | 09/912,943             | SANN, CHRISTOPHER   |  |
| <b>Examiner</b>              | <b>Art Unit</b>        |                     |  |
| Russell Frejd                | 2128                   |                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## **Office Action Summary**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 25 July 2001.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) \_\_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-23 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

In re Application of: Sann

***Election / Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-10 and 21-23, drawn to predicting a climatic related phenomenon, classified in class 703, subclass 22.
  - II. Claims 11-20, drawn to a method of doing business, classified in class 705, subclass 1.
- 1.1 Inventions of Groups I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

In the instant case, the invention of Group I has separate utility such as generating a predictive indicator as a function of time from a modeling program, wherein time related climatic data is collected, categorized, and assigned to data pockets determined from portions of a cycle. The invention of Group II has separate utility such as providing a business service subscription to a client for a fee, wherein the subscribing client accesses a central computer to receive a desired predictive behavior in a desired geographic region as a function of time. These separate uses distinguish the invention of each of Groups I and II from one another. Therefore, the invention of each of Groups I and II is a separately usable subcombination. See MPEP § 806.05(d):

- 1.2 Because these inventions are distinct for the reasons given above, and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter, restriction for examination purposes as indicated is proper.

**In re Application of: Sann**

**1.3** Because the requirement for restriction is complex, no telephone communication was made. See MPEP § 812.01.

**1.4** Applicant's are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b), if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

**1.5** Applicant's are advised that a reply to this requirement must include an election of the invention to be examined, even though the requirement may be traversed under 37 CFR 1.143.

***Response Guidelines***

**2. Any response to the Examiner in regard to this communication or earlier communications should be**

**directed to:** Russell Frejd, telephone number (571) 272-3779, Monday-Friday from 0530 to 1400 ET, or the examiner's supervisor, Jean Homere, telephone number (571) 272-3780.

**mailed to:** Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:** (571) 273-8300

Hand-delivered responses should be brought to the Customer Service Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

Date: 27-July-2005

Russell Frejd  
RUSSELL FREJD  
PRIMARY EXAMINER